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5 UNITED STATES DISTRICT COURT  
6 WESTERN DISTRICT OF WASHINGTON  
7 AT SEATTLE

8 WEDI CORP.,

9 Plaintiff,

10 v.

11 BRIAN WRIGHT, et al.,

12 Defendants.

C15-671 TSZ

MINUTE ORDER

13 The following Minute Order is made by direction of the Court, the Honorable  
14 Thomas S. Zilly, United States District Judge:

15 (1) wedi Corp.’s motion, docket no. 341, for reconsideration of the Minute  
16 Order entered May 18, 2021, docket no. 340, is DENIED. In reversing in minimal part  
17 this Court’s grant of summary judgment against wedi Corp. (“wedi”) on its false  
18 advertising claims, the United States Court of Appeals for the Ninth Circuit reasoned that  
19 wedi’s “evidence” that the International Code Council - Evaluation Service (“ICC-ES”)  
20 “did not request product samples . . . to test, but rather relied upon IAPMO’s tests”  
21 created a material question of fact as to whether the statement “Hydro-Blok Products are  
22 ICC-ES Tested and Certified” was false. See Mem. Dispo. at 4-5 (docket no. 335).  
23 Nothing in the Ninth Circuit’s decision suggested that wedi should be permitted on  
remand to engage in discovery that should have been completed before this Court ruled  
on the dispositive motion that was the subject of appellate review. Moreover, wedi  
makes no showing that discovery must be reopened for it to obtain the information it  
wants. To the extent that wedi previously propounded discovery requests to defendants  
regarding their financial information, defendants have a continuing obligation to update  
their responses. See Fed. R. Civ. P. 26(e)(1). To the extent that wedi seeks explanations  
from ICC-ES about its testing procedures, wedi makes no showing that formal discovery  
is required. Indeed, Exhibit 2 to wedi’s counsel’s declaration, docket no. 342, indicates

1 that the ICC-ES is willing to provide answers to questions informally via email. Given  
2 the ICC-ES's response, stating that it has "the right to take a sample off the production  
3 line" or from "the store floor" for testing, Ex. 2 To Becka Decl. (docket no. 342), wedi  
4 fails to demonstrate that further discovery from defendants would tend to prove one way  
5 or the other whether ICC-ES tested the Hydro-Blok Products. Finally, wedi's request for  
an opportunity to identify additional expert witnesses constitutes an improper attempt to  
circumvent the Court's prior ruling that only experts properly "disclosed" on or before  
November 13, 2018, will be permitted to testify at trial. See Minute Order at ¶¶ 1(a) &  
(b) (docket no. 230).

6 (2) The Clerk is directed to send a copy of this Minute Order to all counsel of  
7 record.

8 Dated this 25th day of June, 2021.

9 William M. McCool  
Clerk

10 s/Gail Glass  
11 Deputy Clerk